



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-508-813]

Magnesium from Israel: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of magnesium from Israel. The period of investigation (POI) is January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ethan Talbott or Dana Mermelstein, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1030 or (202) 482-1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 20, 2018.<sup>1</sup> Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the

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<sup>1</sup> See *Magnesium from Israel: Initiation of Countervailing Duty Investigation*, 83 FR 58529 (November 20, 2018) (*Initiation Notice*).

resumption of operations on January 29, 2019.<sup>2</sup> On February 6, 2019, Commerce postponed the preliminary determination of this investigation until May 2, 2019.<sup>3</sup>

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>4</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

### Scope of the Investigation

The product covered by this investigation is magnesium from Israel. For a full description of the scope of this investigation, *see* Appendix I to this notice.

### Scope Comments

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<sup>2</sup> *See* Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>3</sup> *See Magnesium from Israel: Postponement of Preliminary Determination of Countervailing Duty Investigation*, 83 FR 2157 (February 6, 2019).

<sup>4</sup> *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Magnesium from Israel," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

In accordance with the preamble to Commerce's regulations,<sup>5</sup> the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.*, scope).<sup>6</sup> No parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. As such, we have made no modifications to the scope.

### Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>7</sup>

### Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of Magnesium from Israel based on a request made by the petitioner.<sup>8</sup> Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than September 16, 2019, unless postponed.

### All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not

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<sup>5</sup> See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> See *Initiation Notice*.

<sup>7</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>8</sup> See Letter from the petitioner, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Magnesium From Israel,” dated October 24, 2019. The petitioner is US Magnesium LLC.

individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Dead Sea Magnesium, Ltd. (DSM),<sup>9</sup> the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts available, the countervailable subsidy rate calculated for DSM is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

#### Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

<b>Company</b>	<b>Subsidy Rate (percent)</b>
Dead Sea Magnesium, Ltd.	7.48
All Other Companies	7.48

#### Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

#### Disclosure

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<sup>9</sup> As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with DSM: Israel Chemicals Ltd., ICL Israel Ltd., Dead Sea Works Ltd., Dead Sea Bromine Company Ltd., Rotem Amfert Negev Ltd., Bromine Compounds Ltd., and Fertilizers & Chemicals, Ltd.

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

#### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington,

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<sup>10</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Jeffrey I. Kessler,  
Assistant Secretary  
for Enforcement and Compliance.

May 2, 2019.

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Date

## **Appendix I**

### **Scope of the Investigation**

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation also includes blends of primary magnesium, scrap, and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, t-bars, rounds, sows, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) products that contain at least 99.95 percent magnesium, by weight (generally referred to as “ultra-pure” or “high purity” magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by weight (generally referred to as “pure” magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, whether or not conforming to an “ASTM Specification for Magnesium Alloy.”

The scope of this investigation excludes: (1) magnesium that is in liquid or molten form; and (2) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (A1203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.

The merchandise subject to this investigation is classifiable under items 8104.11.00, 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary

II. Background

III. Scope Comments

IV. Subsidies Valuation

V. Analysis of Programs

VI. ITC Notification

VII. Disclosure and Public Comment

VIII. Verification

IX.

Conclusion

[FR Doc. 2019-09450 Filed: 5/7/2019 8:45 am; Publication Date: 5/8/2019]